

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

ERWIN BURLEY,

Petitioner,

VS.

WILLIAM STEPHENS,

Respondent.

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CIVIL ACTION NO. 2:13-CV-215

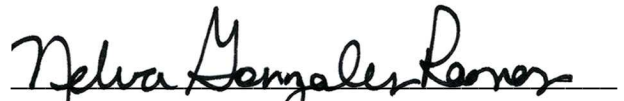
ORDER ADOPTING MEMORANDUM AND RECOMMENDATION

Pending before the Court is Petitioner's motion to dismiss. D.E. 52. Petitioner requests that this Court dismiss his pending habeas petition without prejudice so that he can "give the Court of Criminal Appeals an opportunity to review all legal theories [in his petition]." D.E. 52, p. 3. On April 29, 2014, United States Magistrate Judge Jason B. Libby submitted a Memorandum and Recommendation recommending that Petitioner's motion be granted and this habeas petition dismissed. D.E. 53. Respondent did not file objections to the Memorandum and Recommendation.

Because Respondent has not made specific objections to the Magistrate Judge's Memorandum and Recommendation, this Court need only satisfy itself that there is no plain error on the face of the record with regard to Petitioner's claims. *Guillory v. PPG Industries, Inc.*, 434 F.3d 303, 308 (5th Cir. 2005) (citations omitted). Finding no plain error, this Court **ADOPTS** the findings of fact and conclusions of law expressed in the Memorandum and Recommendation with regard to the Petitioner's pending motion.

Having reviewed the findings of fact, conclusions of law, and recommendations set forth in the Magistrate Judge's Memorandum and Recommendation and all other relevant documents in the record, the Court **ADOPTS** as its own the findings and conclusions of the Magistrate Judge. Therefore, Petitioner's motion to dismiss (D.E. 52) is **GRANTED**, and this action is **DISMISSED** without prejudice. Any pending motions are **DISMISSED** as moot.

ORDERED this 23rd day of June, 2014.


NEELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE